IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE EIGHTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 22691 of 2004

Between:

M. Sammaiah, S/o. Shivaiah,
Gorlaveedu Vilage, Bhupalpally Mandal,
Warangal District.

... PETITIONER

AND

1 The Revenue Divisional Officer, Mulugu, Warangal District.
2 The Mandal Revenue Officer, Bhupalpally Mandal, Warangal District.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, Order or direction more particularly one in the nature of Writ of Mandamus declaring the order dated 25-11-2004 issued in Proceedings NO. I/3430/2004 by the 1st respondent as illegal and arbitrary and consequently direct the Respondents to supply commodities to the Petitioner for distribution to the Card Holders.

Counsel for the Petitioner: Mr.A.PRABHAKAR RAO, ADVOCATE

Counsel for the Respondents : GP FOR CIVIL SUPPLIES

The Court made the following :

O R D E R:

The petitioner is the dealer of a Fair Price Shop of Gorlaveedu village, Bhupalpally Mandal of Warangal District. The first respondent suspended the authorization of the petitioner through proceedings dated 25.11.2004. The same is challenged in this writ petition.

Learned counsel for the petitioner submits that when some complaints were received against the petitioner by the then Revenue Divisional Officer, Mulugu, he directed the Mandal Revenue Officer, Bhupalpally, the second respondent, to conduct an enquiry. On the basis of the enquiry, a show-cause notice dated 16.09.2004 was issued alleging that the petitioner supplied only 40 Kgs of drought rice, instead of 60 Kgs., for the months from January, 2004 to June, 2004. Learned counsel also submits that on receiving explanation, the Revenue Divisional Officer found that the allegation is not correct and dropped the proceedings by levying a token penalty of Rs.500/-. According to him, the present order is based on the same allegation and it amounts to reviewing of the earlier order.

Learned Government Pleader for Civil Supplies, on the other hand, submits that the impugned order is based on certain additional factors, such as, the alleged irregularity in relation to distribution of rice of AAY cards etc.

The petitioner was issued a show-cause notice dated 16.09.2004 alleging that he committed irregularities in distribution of drought rice. He submitted an explanation on 17.09.2004. A local enquiry was conducted by the second respondent, and he in turn submitted a report on 22.09.2004. It emerged therein that the allegation against the petitioner is not true. Based on the same, the first respondent passed an order dated 6.10.2004, by imposing a penalty of Rs.500/-.

In the present order also, there is a reference to the alleged irregularity of distribution of drought rice for the months from January, 2004 to June, 2004. In relation to this, it can be said that the order amounts to reviewing of the earlier order dated 16.10.2004. One additional allegation contained in the impugned order is about the distribution of rice of AAY cards. Since the period is not referred, it is difficult to

imagine whether it is covered by the enquiry that was undertaken by the second respondent on earlier occasion. This aspect of the matter needs to be dealt with, at the enquiry that may be conducted by the first respondent after receiving the explanation of the petitioner.

Strictly speaking, the petitioner has to avail the remedy of appeal, if he is feeling aggrieved by the impugned order of suspension. However, the impugned order, in a way constitutes the exercise of review of the earlier orders and there does not exist any power in the first respondent to review his own orders. This Court is of the view that the petitioner need not be required to undergo the ordeal of preferring of appeals etc. Instead, the first respondent can be required to expedite the proceedings against the petitioner and the petitioner can be permitted to function as dealer in the mean while.

Hence, the writ petition is disposed of, directing that the suspension ordered against the petitioner be set aside, and that the first respondent shall be entitled to proceed against the petitioner, duly issuing a show-cause notice, and to pass appropriate orders after receiving additional explanation. The question as to whether the allegations against the petitioner in the present context are covered by the previous orders shall specifically be dealt with. There shall be no order as to costs.

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8th December, 2004

Note: Issue copy in three days.

(B/o)

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To

1 The Revenue Divisional Officer, Mulugu, Warangal District.
2 The Mandal Revenue Officer, Bhupalpally Mandal, Warangal District.

3 Two C.Cs to the Government Pleader for Civil Supplies,

High Court Buildings, Hyderabad (OUT).

4 Two C.D.copies.